

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA) 3:12-cr-392
)
v.) Sentencing
)
MIGUEL QUINTERO) August 22, 2013

BEFORE THE HONORABLE REED C. O'CONNOR
United States District Judge
In Dallas, Texas

FOR THE GOVERNMENT:

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The above styled and numbered cause was reported by computerized stenography and produced by computer.

1 (August 22, 2013. Dallas, Texas.)

2 **THE COURT:** You're ready?

3 **MS. BLACKNALL:** We are, Your Honor.

4 **THE COURT:** All right. Very good. I've call case
5 No. 3:12, CR-392. The United States versus Miguel Quintero.

6 **MR. KULL:** John Kull for the Government, Your Honor.

7 **MS. BLACKNALL:** Sharita Blacknall for the defendant.

8 **THE COURT:** Thank you, Ms. Blacknall. It's good to
9 see you again. Mr. Quintero, would you, please, acknowledge
10 your presence in court for the record by stating your full
11 name?

12 **THE DEFENDANT:** Miguel Quintero.

13 **THE COURT:** Quintero?

14 **THE DEFENDANT:** Yes, sir.

15 **THE COURT:** Miguel Quintero?

16 **THE DEFENDANT:** Yes, sir.

17 **THE COURT:** Okay. Thank you, sir. If I mispronounce
18 your name, I apologize.

19 You appeared before me on February 28, 2013, at which
20 time you pleaded guilty to count one of the two count
21 indictment which charged you with a violation of Title 21,
22 United States Code, Section 846. On that date I found that
23 your plea of guilty was a knowing and voluntary plea supported
24 by an independent basis in fact containing each of the east
25 evenings an elements of the offense. You told me at that time

1 you understood the elements of the offense, agreed to the
2 accuracy of the factual resume, and admitted that you
3 committed all of the essential elements of this offense.

4 I found you guilty at that time.

5 Your plea of guilty was taken pursuant to a plea
6 agreement and I've reviewed that document and believe it
7 should be accepted, therefore your judgment and sentence will
8 be consistent with it.

9 Ms. Blacknall, did -- Ms. Blacknall, I'm sorry. I'm
10 talking too fast. Ms. Blacknall, did you and your client
11 receive in a timely man a copy of the Presentence
12 Investigation Report and the addendum

13 **MS. BLACKNALL:** We did, Your Honor.

14 **THE COURT:** Did you carefully review that with your
15 client?

16 **MS. BLACKNALL:** I did.

17 **THE COURT:** Mr. Kull, did you receive this documents?

18 **MR. KULL:** Yes, Your Honor.

19 **THE COURT:** Could you -- when you give me copies of
20 your objections, could you put them on one page, not on front
21 and back.

22 **MR. KULL:** I've already talked to Ms. Crowley about
23 that and I will proceed in the future with that, Your Honor.

24 **THE COURT:** They are all just stapled in this
25 document, so it makes it hard for me to read through all that.

1 **MR. KULL:** Yes, Your Honor.

2 **THE COURT:** Thank you for that. Okay. There have
3 been some objections filed in this case. Does the Government
4 wish to present any evidence with respect to these objections?

5 **MR. KULL:** No, Your Honor. But if the Court has any
6 questions, we have Task Force Officer Boston here to address
7 any concerns the Court might have with those objections.

8 **THE COURT:** Yes. Thank you. And, Ms. Blacknall, I
9 will turn the floor over to you. Do you wish to present any
10 evidence as to your objections?

11 **MS. BLACKNALL:** No, Your Honor. We stand on the --
12 no evidence. We just stand on the arguments made in our
13 objections.

14 **THE COURT:** Very good. I will overrule all of the
15 objections for the reasons stated in the addendum and the
16 Government's response.

17 I will just comment on a few of them. With respect
18 to the safety valve, I don't think he's entitled to safety
19 valve. Number one, there's just an arsenal of firearms
20 involved with your client. And then, number two, he is
21 obligated to give complete and truthful information to the
22 Government.

23 With respect to your objection to minor role, it
24 appears from my review of the Presentence Report and the
25 addendum that the documents are holding him accountable only

1 to the amount of methamphetamine that can be directly
2 attributable to him.

3 I think it is proper to consider in determining the
4 quantity of methamphetamine attributable to Mr. Quintero that
5 the telephone calls are accurate indicators of the drug amount
6 even though they are negotiations, so I would overrule that as
7 well.

8 And then again, I think I -- I don't think I've left
9 anything out. As to the firearms, as I mentioned, there's an
10 abundance of evidence that they were at his home and that they
11 were there to further the drug trafficking crime and, in
12 addition, that there's an abundance of evidence that he knew
13 or had reason to know others were possessing and using those
14 firearms to further the drug trafficking crime.

15 So, I believe I've overruled all of the objections
16 and provided reasons for it. Are there any other objections
17 that I've not addressed, Ms. Blacknall?

18 **MS. BLACKNALL:** No, Your Honor.

19 **THE COURT:** All right. Then I will adopt the fact
20 findings contained in the Presentence Investigation Report. I
21 will also adopt the Probation Officer's conclusions in
22 those -- in that document as to the appropriate guideline
23 calculations and determine that the appropriate guideline
24 calculations are as follows:

25 A total offense level of 39;

1 A Criminal History Category of I;
2 A custody range of between 262 and 327 months;
3 A supervised release range of between 5 years and
4 life;
5 A fine range of between \$25,000 and \$10 million
6 dollars; and
7 A special assessment of \$500.

8 Does the Government wish to be heard on sentencing?

9 **MR. KULL:** Briefly, Your Honor. Last Friday and
10 Monday of this week the PSR came to light in this court
11 because you got to hear from Task Force Officer Boston the
12 amount of time and energy spent on this investigation and it
13 was really focused on the defendant who sold to this man
14 multiple times. I don't need to say the obvious about the
15 purity level of the methamphetamine. You didn't even get to
16 hear the 17 transactions he had with his other client,
17 La Shawn Warren who as now pled guilty and admitted to those
18 transactions in his factual resume. He was them main
19 seller -- one of the main sellers for the organization.

20 The Court heard about the arsenal that was kept at
21 his house to protect that dope. You got to see him in the car
22 and the way he was acting. In fact, on the last buy you heard
23 from him that he said the other organizations didn't have
24 stuff as good as they had. They cut it and I think he said
25 they cut it and shit; right? He was selling good product to

1 this man. Thankfully for Detective Boston, we got it off the
2 streets. But he was the main seller for the organization.

3 And the whole irony with Mr. Quintero was that in
4 paragraph 73 of his PSR, he said he tried methamphetamine and
5 didn't like it, but yet he is willing to sell it to
6 individuals he doesn't even know in order to turn a profit, to
7 keep living that life-style. You also saw a photograph of how
8 he spent his money; right? When he is on Agne Vasquez's
9 Facebook page where this man is holding a huge sum of money
10 and he is checking it out. He is at a night club. That's --
11 that's why he was selling product, who he -- he would go to
12 strip clubs. That should make the Court sick. We need to you
13 to protect us, Judge, from people like Mr. Quintero who live
14 to make money an off of other people's suffering and
15 addiction.

16 And it's wrong, the purity level, and the amount of
17 times he sold, I would submit -- obviously you make the
18 decision -- but to vary outside the guidelines. What has he
19 done to show the Court he deserves something less than a
20 guideline sentence. In my opinion, at least based on the
21 evidence as you heard it and what's in the PSR, there's
22 nothing that would warrant any type of departure for
23 Mr. Quintero.

24 **THE COURT:** Thank you. Ms. Blacknall, I'll turn the
25 floor over to you, ma'am.

1 **MS. BLACKNALL:** Your Honor, we have previously
2 submitted two letters --

3 **THE COURT:** And I've read both of them. I apologize
4 for not telling you that in advance, but I read both of them
5 and I understand that they were translated or that they were
6 dictated, I guess, to someone else to write it, a younger
7 person to write it, so I've read both of those and thank you
8 for providing those to me in advance and again I apologize for
9 not telling you that.

10 **MS. BLACKNALL:** That's okay. Thank you, Your Honor.
11 And we have one witness that briefly wants to be heard --

12 **THE COURT:** Okay. Of course.

13 **MS. BLACKNALL:** -- by the Court.

14 **THE COURT:** Very good. Ms. Quintero, if you would go
15 with your -- with the marshal, I'm sorry, and, Ms. Blacknall,
16 if you would call your witness, please.

17 **MS. BLACKNALL:** I call Claudia Contreras.

18 **THE COURT:** Yes. Please come up, ma'am. Ma'am,
19 would you, please, raise your right hand and be sworn.

20 (Witness sworn by the clerk at this time.)

21 **THE COURT:** Very good. Do you wish to proceed by
22 question and answer or just allow her to speak?

23 **MS. BLACKNALL:** Your Honor, I would like to ask her a
24 few questions --

25 **THE COURT:** Of course.

1 **MS. BLACKNALL:** -- and then at the end I will give
2 her the opportunity if I haven't asked her a question that
3 elicited everything that she wanted to say, I would give her
4 the opportunity to --

5 **THE COURT:** Thank you for that.

6 **BY MS. BLACKNALL:**

7 Q. Can you state your name for the record, please?

8 A. My name is Claudia Contreras.

9 Q. Claudia, how old are you?

10 A. I am eighteen years old.

11 Q. How do you know Mr. Quintero?

12 A. We met at school.

13 Q. Is he your boyfriend?

14 A. Currently, no.

15 Q. All right. But up until recently he was your boyfriend?

16 A. Yes.

17 Q. And when -- how old were you when the two of you guys met
18 each other?

19 A. I was thirteen going on fourteen.

20 Q. How old was he?

21 A. He had just turned fifteen.

22 Q. And how old is he now?

23 A. Nineteen.

24 Q. And up until I guess about a couple of months ago, you and
25 he were boyfriend/girlfriend?

1 A. Yes.

2 Q. And during the time period that you've known him, where
3 was he living and who was he living with?

4 A. With his grandmother.

5 Q. And was anyone else living there with him?

6 A. His cousins and that's it.

7 Q. Now, during the time period that you've known him, did
8 Mr. Quintero have any ways of earning money other than what
9 he's accused of here today?

10 A. He would help his friends, you know, because -- install
11 stereos, work on cars, little stuff like that.

12 Q. Does he pretty much know just about everything there is to
13 know about working on cars?

14 A. Yes.

15 Q. Have you seen him do that often to earn money?

16 A. Yes, I have.

17 Q. During the time period that you have known him, have you
18 ever seen him with any guns?

19 A. No, Your Honor.

20 Q. Have you ever seen him with any drugs?

21 A. No.

22 Q. Did he bring any of that life-style around you?

23 A. No, never that I've known him.

24 Q. Have you had an opportunity to observe him with the rest
25 of his family?

1 A. Yes. He was would just interact with his family and
2 talk -- normal family things that people normally do, you
3 know. That's pretty much it.

4 Q. And have you known him to be helpful with his grandmother
5 and his other siblings?

6 A. Yes. He would help his siblings with her daughter and one
7 of his parents needed money or anything like that, he would
8 provide that for them. His grandma is sick and old, so he
9 would help her with her diabetes medicine, you know, take care
10 of her, ask if she needed something, little stuff like that.

11 Q. Have you ever known Mr. Quintero to be violent towards
12 anyone?

13 A. No, I have never seen him.

14 Q. All right. And he's never been violent toward you?

15 A. No. Never.

16 Q. Tell the Judge a little bit about yourself. Do you work
17 and are you in college right now?

18 A. Yes. I'm currently working a part-time job and I go to
19 school full-time.

20 Q. All right. And the reason that you and Mr. Quintero are
21 not together any more is not because you guys are upset
22 with each other or --

23 A. Yeah. It's not like we got into an argument, it's just
24 the situation he is in, it's pretty much impossible.

25 Q. Has he pretty much lived in the Dallas area for as long as

1 you've known him?

2 A. All the time I've known him and before he's always lived
3 in the Dallas area.

4 Q. And have you ever known him to go to Mexico?

5 A. No. He was never -- that I know of. Since I've known him
6 he has never gone to Mexico. I believe he was like eight
7 years old or something is the last time he went.

8 Q. Now, if Mr. Quintero is -- when he's released from jail,
9 do you think that he would engage in this activity that
10 he's --

11 A. No.

12 Q. -- engaged in?

13 A. No, I don't think so.

14 Q. Since he has been in jail, explain to the Judge the
15 changes that you've seen in him?

16 A. He is actually more mature. I see that charge. We can
17 actually have a serious talk now. He takes things a little
18 more serious than he did back then and he told me he wanted to
19 graduate in there, you know, get a diploma, get something, and
20 maybe go to tech school and get a title -- his title for cars.

21 Q. Is there anything you would like to say to the Judge
22 regarding Mr. Quintero and what you think should happen to him
23 that I have not asked you about?

24 A. Well, I just think, you know, everything you do has a
25 consequence. Yes, I do see that. But I feel like Miguel

1 didn't have a role model to tell him that, you know, this was
2 wrong or right. They let him drop out of the sixth grade. I
3 mean, who does that? I really don't see. You can see all of
4 his family is in jail, so I feel like he's just -- and he
5 doesn't -- he should be punished so hard.

6 Q. All right. And although you're the only person here
7 that's speaking here for Miguel today, are there other people
8 who are in the courtroom for him as well?

9 A. Yes. His family is right here.

10 THE COURT: Thank you all for being here.

11 Q. And pretty much I guess half of the gallery is filled up
12 with Miguel's family. Is that correct?

13 A. Yes.

14 Q. And how does Miguel's family feel about him?

15 A. They -- you know, they like him, he is sweet, he helps
16 everybody, they really appreciate him, they are worried about
17 him, they care about him, and they want him to come home as
18 soon as possible.

19 MS. BLACKNALL: I'll pass the witness, Your Honor.

20 THE COURT: Okay. Thank you. He doesn't need to
21 cross here. That's fine.

22 MS. BLACKNALL: Your Honor, we have no other
23 witnesses, Your Honor.

24 THE COURT: Okay. Then I want to give you an
25 opportunity -- would you please come back up with your

1 counsel. I want to give you an opportunity to make any final
2 statements you would like and also provide your client an
3 opportunity to speak as well in whatever order you wish to do
4 that in.

5 **MS. BLACKNALL:** Thank you, Your Honor. Your Honor, I
6 just have a few just brief things that I would like to say to
7 the Court. I would respectfully ask that the Court sentence
8 Mr. Quintero to a sentence that's sufficient but that is not,
9 you know, so severe that it's not necessary.

10 Mr. Quintero knows what he did. He early on accepted
11 responsibility for his role in this activity and although he
12 did not provide all of the information to the Government that
13 the Government would like to have him to provide, the reason
14 that he didn't do that, Your Honor, is that he wanted -- he
15 gave them all the information about what he did. He was
16 completely willing to give them information about other
17 people. There was only person that he did not want to give
18 them information about and that was his cousin, Agne Vasquez,
19 who he grew up with, Your Honor, from the time that he was
20 little. They were both raised by their grandmother. They
21 grew up in a probably 300 square foot room together sleeping
22 in twin beds together for their whole life. And so he didn't
23 want to be the cause of Agne Vasquez getting convicted of
24 whatever, you know, his role was. He just wanted to accept
25 responsibility for his role but he didn't want to be the cause

1 of Agne being convicted or anything that happened to Agne as a
2 result of anything that he said.

3 So although I understand and Mr. Quintero
4 understands, you know, what the rules say that he's supposed
5 to give as much information to the Government as they're
6 asking him for, he just wanted the Court to know that with
7 respect to that one person he just could not bring himself to
8 give them the information that they were asking about and he
9 forbade me from giving them any, you know, of that -- of that
10 information as well.

11 With respect to the -- his guideline range, Your
12 Honor, I don't think that his guideline range accurately
13 reflects his specific characteristics, Your Honor. The base
14 offense level that was assigned to this case is due in part to
15 the purity level of the drugs and, in general, I believe that
16 the Sentencing Commission made it -- that offense level so
17 high because they think that the role of the person involved
18 is, you know, higher up on the totem pole. But although
19 Mr. Quintero was involved in several transactions with the
20 undercover agent as well as Mr. La Shawn Ward, he doesn't know
21 any of the inner workings of the organization. He's not high
22 up in the -- in the organization. He -- his only role is to
23 do what people tell him to do and he doesn't have any access
24 to any suppliers or, you know, anything like that, and during
25 the time period that this conspiracy was started, really the

1 two people that you know about are really the only two people
2 that he was transacting with.

3 Mr. Quintero is nineteen years old now, Your Honor,
4 but at the time this conspiracy started, he was actually
5 seventeen years old when this conspiracy started. So -- I
6 mean, he was essentially what would be considered to be a
7 juvenile at the time that this conspiracy started.

8 So although that doesn't take away any of his
9 responsibility for his role in this conspiracy, I think that
10 the Court should at least consider his age from that time
11 until now. He's a relatively young man.

12 He had very good family ties, as you read from the
13 letters that we submitted. He never brought drugs or guns or
14 anything that he was doing in his life-style around his
15 immediate family or his girlfriend. He, you know, tried to
16 separate that and keep them -- keep them away from that
17 because he didn't want them to be involved in or some kind of
18 way be implicated in whatever it was that he was doing.

19 So although we realize that his offense level came
20 out to be very high, Your Honor, we don't think that
21 sentencing him within those guidelines would accurately
22 reflect everything that's really going on with Mr. Quintero,
23 so we would ask that the Court take everything into
24 consideration, the Presentence Report information that you
25 have there, his factual resume, the fact that he came in so

1 early to accept responsibility, the information that you've
2 heard from his girlfriend here today and the fact that, you
3 know, you have basically half a courtroom of people here that
4 are willing to come in and support Mr. Quintero, we would just
5 ask that you take all that into consideration and consider
6 giving him a downward departure or a variance in order to more
7 accurately reflect what's really going on here.

8 **THE COURT:** Well, thank you. Mr. Quintero, do you
9 wish to speak on your behalf or present information in
10 mitigation of your sentence?

11 **THE DEFENDANT:** I just want to apologize for what I
12 did. I apologize to my family and for putting them through
13 all this. That's all.

14 **THE COURT:** Okay. Thank you, sir. I will now state
15 the sentence determined pursuant to Title 18 U.S.C. § 3553
16 treating the Sentencing Guidelines as advisory only.

17 In arriving at a reasonable sentence, I've taken into
18 account primarily the conduct admitted in the factual resume
19 and those matters required to be considered by 3553.

20 The attorneys will have a final chance to make legal
21 objections before sentence is finally imposed.

22 It is the judgment of the Court that the Defendant,
23 Miguel Quintero, is hereby committed to the custody of the
24 Federal Bureau of Prisons for a period of 262 months.

25 Pursuant to the preliminary order of forfeiture, I

1 will order he forfeit all right, title, and interest in the
2 following property:

3 A 1986 Oldsmobile Cutlass; a Glock model 2340 caliber
4 handgun and ammunition; an FEG 7.62 .39 caliber rifle with
5 ammunition; a Bushmaster model XM15-E26 .223 caliber with
6 ammunition; a New England Arms 12 gauge shotgun; a Colt
7 Commander .45 caliber with ammunition;

8 I do not order a fine;

9 He is ordered to pay a mandatory special assess.
10 \$100.

11 Upon his release from prison, he is placed on
12 supervised release for a term of 5 years. It is further
13 ordered that upon his release from prison he comply with the
14 standard conditions contained in this judgment and with the
15 mandatory and special conditions contained herein.

16 He shall not commit another federal, state, or local
17 crime.

18 He shall not illegally possess controlled substances.

19 He shall cooperate in the collection of DNA as
20 directed by the probation officer.

21 He shall not possess a firearm, ammunition,
22 destruction device, or any other dangerous weapon.

23 He shall report in person to the Probation Office in
24 the district to which he is released within 72 hours of his
25 release.

1 He shall refrain from any unlawful use of a
2 controlled substance. Submit to one drug test within 15 days
3 of his release from prison and at least two periodic drug
4 tests thereafter, all as directed by his probation officer.

5 He shall participate in a program approved by the
6 Probation Office for the treatment of narcotic drug or alcohol
7 dependency which will include testing for the detection of
8 substance use or abuse.

9 He shall abstain from the use of alcohol and/or all
10 other intoxicants during and after completion of treatment and
11 contribute to the cost of services rendered at a rate of at
12 least \$10 per month.

13 He shall participant in work force development
14 programs and services involving activities relating to
15 occupational and career development including, but not limited
16 to, assessments and testing, educational instruction, training
17 classes, career guidance, counseling, case management, and job
18 search and retention services as directed by the probation
19 officer until successfully discharged.

20 I believe a sentence within the guideline range is
21 appropriate -- within this particular guideline range is
22 appropriate because I believe that this sentence of 262 months
23 is the appropriate sentence in this case, given all the facts
24 and circumstances after applying the facts to the requirements
25 of 3553.

1 What that means practically in my view is that if I'm
2 wrong on any of the objections that I've ruled on here today,
3 this is the sentence I otherwise would impose if there were no
4 guidelines at all and those rulings were irrelevant.

5 I believe this is the appropriate sentence even
6 within this guideline range. I believe that at this level is
7 the appropriate sentence because Mr. Quintero did, as
8 Ms. Blacknall mentioned, did come in quickly, did plead
9 quickly, and he is nineteen years old. Counteracting that
10 though, as the Government mentioned, is his role in this
11 offense, including all of the controlled purchases that were
12 described, the wire intercepts that, as I mentioned in
13 overruling the objections, I find that there was an arsenal of
14 firearms, ammunition, large capacity magazine, scopes,
15 ballistic vests and a digital security system. And so for
16 those reasons I believe this is the appropriate sentence,
17 given all of the fact and circumstances, in that this sentence
18 is sufficient but not greater than necessary to comply with
19 the statutory purposes of sentencing.

20 Is there any reason from the Government why that
21 sentence should not be imposed?

22 **MR. KULL:** No, Your Honor.

23 **THE COURT:** From the defense?

24 **MS. BLACKNALL:** No, Your Honor. But we do have
25 one -- one request, Your Honor.

1 **THE COURT:** Yes, ma'am.

2 **MS. BLACKNALL:** That Mr. Quintero be allowed to go to
3 a facility that is within the Dallas/Fort Worth area so that
4 he can be close with his family. We would also note that
5 Mr. Quintero has a physical problem with his foot that was
6 noted in the Presentence Report and we understand that there
7 is a medical facility that he may be eligible to go to in Fort
8 Worth, so we just ask that he be -- remain in this area for
9 those two reasons, Your Honor.

10 **THE COURT:** I will make that recommendation.

11 Mr. Quintero, that's a recommendation only. The Bureau of
12 Prisons does not have to follow that recommendation. They can
13 send you anywhere that meets their needs and your needs and
14 given that you have multiple codefendants, that will pose some
15 sort of challenge to them, but I will make that recommendation
16 and I'm sure they will consider my recommendation, but
17 ultimately the decision is theirs.

18 Is there a motion from the Government?

19 **MR. KULL:** Judge, just for record purposes, I know
20 that in the preliminary order of forfeiture in ECF 191,
21 No. 24 was listed as a Cold Commander .45 caliber. The serial
22 number we had a "5" instead of an "S." So, for record
23 purposes, the serial number on that Colt Commander the Court
24 just forfeited, No. 24 as listed on ECF 191, is 70SC16053.

25 **THE COURT:** Okay.

1 **MR. KULL:** And we move to dismiss count two in the
2 original indictment as to this defendant only.

3 **THE COURT:** Okay. The order of forfeiture will now
4 reflect the serial number that Mr. Kull has identified in the
5 record. If for some reasonable you need -- for some reason
6 this becomes an issue, you will need to get this transcript
7 typed up and I will grant your motion to amend that order --
8 and/or the motion and then I will grant your motion to dismiss
9 as to this defendant only. Anything else from the Defense?

10 **MS. BLACKNALL:** No, Your Honor.

11 **THE COURT:** Then, Mr. Quintero, you have the right to
12 appeal your sentence if you did not waive your right to
13 appeal. And if you have the right to appeal, you also have
14 the right to apply for leave to appeal in forma pauperis if
15 you are unable to pay the costs of an appeal. And if you
16 decide to appeal your notice must be filed within 14 days.

17 We are in recess on this case. Thank you all for
18 being here and good luck to you, Mr. Quintero.

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1 I, **DENVER B. RODEN**, United States Court Reporter for the
2 United States District Court in and for the Northern District
3 of Texas, Dallas Division, hereby certify that the above and
4 foregoing contains a true and correct transcription of the
5 proceedings in the above entitled and numbered cause.

6 **WITNESS MY HAND** on this 29th day of November, 2013.

7

8

9

/s/ Denver B. Roden

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